IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 6TH NOVEMBER 2007 / 15TH KARTHIKA 1929

Crl.MC.No. 3366 of 2007()

CP.223/2007 of JUDL. MAGISTRATE OF FIRST CLASS COURT, CHALAKUDY

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PETITIONER: ACCUSED NO.5

ELIAS,S/O. KURIAPPAN
MOOZHIKKULAM HOUSE
VELLIKULANGARA VILLAGE
CHALAKUDY, THRISSUR DT

BY ADV. SMT.K.V.BHADRA KUMARI

RESPONDENTS: COMPLAINANT

STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 06/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.3366 of 2007

Dated this the 6th day of November 2007

O R D E R

The petitioner faces indictment in a prosecution under the provisions of the Kerala Abkari Act. The petitioner was not arrested in the course of investigation. According to the petitioner, he was not shown as an accused in the F.I.R or at any time until the final report was filed. Cognizance has been taken. Committal proceedings has been registered by the learned Magistrate. Consequent to the non-appearance of the petitioner, coercive processes has been issued against the petitioner by the learned Magistrate.

2. According to the petitioner, he is absolutely innocent. His absence earlier was not wilful or deliberate. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007